

REMARKS / ARGUMENTS

The action by the Examiner in this application, together with the references cited by him, have been given careful consideration. Following such consideration, claims 1, 7, 12, and 24 have been amended, and claims 25-31 have been canceled. The remaining claims remain unaltered. The amendments to the claims are to more clearly define the invention, and do not include new matter or raise new issues. Basically, the claims have been amended to indicate that the flexible valve element is “one-piece.” This amendment corresponds to previous arguments with respect to the previously used term “integrally formed.” Accordingly, no new issues are raised by the present amendments.

Claims 1-13 and claims 16-23 stand rejected under the ‘115 patent to Malchesky in view of the ’551 patent to Bond et al. With respect to the ‘115 patent to Malchesky, the Examiner takes the position that “when the tray is placed in the decontamination chamber (figure 2:10 and lid B in figure 1), the valves move into an open position for allowing liquid sterilant to enter and exit the tray and when the tray is removed from the decontamination chamber the valves move into a closing position for sealing the container. (col. 7, lines 5-6, lines 26-30) ...” Applicant respectfully disagrees. The ‘115 patent to Malchesky does not show valves that move when the tray is inserted into a decontamination chamber. Foremost, there is nothing in the ‘115 patent that teaches movement of the valves upon insertion or removal of the tray into the decontamination chamber. The explicit teaching of the ‘115 patent indicates that the “check valves 74” of the disclosed structure are pressure actuated. In this respect, column 7, lines 26-30 (cited by the Examiner) indicate that:

“check valves 74 permit the anti-microbial solution under pressure to enter and drain, but close *when the pressure is removed.*” (Emphasis added)

Such text clearly indicates that the check valves are pressure operated. This clear statement, together with the fact that there is no teaching or suggestion of an “actuator” in the ‘115 patent shows that the ‘115 patent does not teach valve assemblies that move into open and closed positions upon insertion and removal of the tray into a decontamination chamber.

Still further in this respect, the Examiner acknowledges that “Malchesky fails to teach using a flexible valve element being integrally formed and having a movable part and a fixed part in the container that is moved by a mechanical actuator in the decontamination chamber...” (See Final Office Action page 3).

Previously, Applicant has argued that the term “integrally formed” suggests a single piece. It is clear from the Examiner’s present Office Action that the Examiner takes the position that an assembly of parts that are assembled together can be defined as “integrally formed.” Accordingly, Applicant has amended the claims to indicate that the flexible valve element is “one-piece.” It is respectfully submitted that the ‘551 patent to Bond et al. does not teach a one-piece valve element having a first portion and a second portion that are connected by radially extending arms. With respect to this latter limitation, the Examiner states:

“Furthermore, the first portion (figure 4:22) is capable of being connected by a plurality of radially extending arms (figure 4:22 and 45) to the second portion (figure 6:21, 22, 45 and figure 11:21, 22, 45 and 77).”

Applicant fails to see where valve member 22 is connected to spout 21 in the ‘551 patent. Radially-extending lugs 45 are part of valve member 22 and move thereto. They are not

U.S. Patent Application No. 10/633,349
Response dated December 5, 2006
OUTSTANDING OFFICE ACTION dated November 14, 2006

connected to spout 21. Applicant respectfully submits that there is no suggestion in the Bond et al. reference to connect the valve member 22 to spout 21. Moreover, it is not shown how such a structure is operable.

Still further, it is respectfully submitted that there is no teaching or suggestion to one skilled in the art to use a “single-service coupling and valve assembly” from the ‘551 Bond et al. patent in the microbial-decontaminating system of the ‘115 patent to Malchesky. Since the ‘115 patent fails to teach, suggest or show the use of an “actuator” to move a valve element, it is only with the benefit of hindsight that one would look to the quick disconnect coupling and valve assembly of the Bond et al. reference for use in the decontamination system of the ‘115 patent. Still further, because the coupling and valve assembly of the ‘551 patent does not teach, suggest or show the one-piece flexible valve element having radially extending arms, it is respectfully submitted that the Examiner’s combination does not teach, suggest or show the claims as presently set forth.

For the foregoing reasons, it is respectfully requested that the Examiner reconsider the claims in their present form, and allow the application.

Respectfully submitted,

Date: 5 Dec 2006

KUSNER & JAFFE
Highland Place – Suite 310
6151 Wilson Mills Road
Highland Heights, Ohio 44143
(440) 684-1090 (phone)
(440) 684-1095 (fax)

MK/cg


Mark Kusner, Reg. No. 31,115